

## **REMARKS**

The application includes independent claims 21, 23, 25, 26, 33, and 37. Claims 3-6, 12, and 18-20 depend from claim 21; Claims 27 -32 depend from claim 26; claims 34 -36 depend from claim 33; and claim 38 depends from claim 37. The Examiner has rejected the previously presented claims (all but newly presented claims 37 and 38) under 35 USC 102(b) and 103(a) citing Descalzi, US Pat. No. 6,148,242.

### **Anticipation Rejection**

Applicants' attorney submits that the rejection of claims based on the Descalzi reference is inappropriate. The Descalzi reference does not include all the elements of the present invention. According to the present invention, certain game events are determined based on possession input without input of the determined event. This feature is specifically seen in claim 21 step b. For example, two successive possession inputs can result in the game event pass, steal and/or turnover. The present invention interprets the possession inputs and determines the correct game event based on the identity of the player in possession. The Descalzi reference, however, does not disclose determining game events from possession input, but requires possession inputs as well as an event input to determine which event has occurred.

This requirement can be seen at column 5, lines 8 – 11 of Descalzi which states:

Actions or statistics are recorded during a game by moving the cursor on the LCD to a player row using the arrow keys in the left vertical group 17, and pressing the applicable action key in vertical group 18.

Also, at column 3, lines 55-60:

[T]he keys of group 17 are utilized to select players and/or teams, the keys of group 18 record "actions" or game events, such as field goals, rebounds, and turnovers and the keys of group 19 support additional operational features to include both recording statistics and data manipulation.

According to Fig. 1 of the reference, other events directly entered from the keys of group 18 include defensive rebound (DR), offensive rebound (OR), turnover (TO), steal (ST), assist (AS) and blocked shot (BL).

With reference to the present Office Action, specifically, claim 21, step b, the Examiner states:

interpreting said possession input from said user interface and determining an *event based on said possession input* (determining an updated statistics, percentage statistics, and cumulative statistics based on the possession input, col.4:61-5-7), (italics added)

The present invention defines possession input as “indicating the player in possession of the primary object of play” (claim 21, step a) and “Each time a new player takes possession of the ball, the user selects the new player.” (specification page 12, lines 4 – 5). Game events or events are defined as pass, turnover, or steal (specification, page 12 line 20 -21), and do not include statistics which are discussed starting on page 16 of the specification. Therefore, according to claim 21, step b, the present invention determines events, such as “pass”, “turnover”, or “steal”, based on inputs indicating the player in possession of the primary object of play.

In comparison, the cited passage of Descalzi, (col 4, li 61 - col 5, li 7) states:

FIG. 5, the Game Shot Screen, follows the tabular format used in the Game Stats Screen of FIG. 4. However, category columns are changed to player uniform number (“NO”); player name (“NAME”); made field goals (“M”); attempted field goals (“A”); field goal percentage (“FG %”); made three-point field goals (“3M”); attempted three-point field goals (“3A”); three-point field goal percentage (“3P %”); made free throws (“FM”); attempted free throws (“FA”); and free throw percentage (“FT %”). All percentage fields are automatically computed from user input of other fields. Like the Game Stats Screen in FIG. 4, cumulative statistics are shown at the bottom of the Game Shot Screen and are updated in real-time. Game clock, time outs, and possession arrow are also shown.

According to this reference, Descalzi automatically computes statistics from user input of events. This is very different than claim 21, step b that determines game events (not statistics) based on possession inputs. Although Applicants believe claim 21 is allowable in its present form, claims 37 and 38 are presented and perhaps more clearly point out this feature of the invention.

Claim 37 describes a system that is operable for receiving and interpreting inputs related to a plurality of events of the sports contest from the user interface. The inputs include possession inputs indicating the player in possession of the primary object of play, event inputs, and officiating inputs at step a. In step b, the system responsively determines an event based on successive possession inputs without an intervening event

input or officiating input. For example, a possession input followed by a possession input indicating a player from the same team, and no intervening event or officiating input (such as a shot or a whistle) is entered; the system interprets the successive possession inputs and determines the event “pass” has occurred (Fig. 8 and specification page 12, lines 13 – 18). This distinguishes the present invention from the device in the reference because Descalzi discloses determination of events based on entry of possession inputs and requires the corresponding event input entry.

Claim 37, step c describes the feature of responsively determining an event based on the possession input and a different event input or officiating input. For example, the event “shot” is input followed by a possession input; the system interprets the inputs and determines the event “rebound” for the player indicated by the possession input (Fig. 10A and specification page 13, lines 8 - 10). This distinguishes the present invention from the device in the reference because Descalzi does not disclose determination of an event based on entry of a different event followed by a possession entry.

Claim 37 step e points out the feature of interactively prompting the user responsive to the officiating input, for additional input and determining an event based on the officiating input and the additional input. For example, after a whistle is indicated, the system provides prompts for additional input to determine the event associated with the whistle. (Figs. 11 and 12, specification page 14, lines 1 – 4) This feature is not present in the Descalzi reference.

Claim 38 identifies a game status that is determined by previous possession, event and officiating inputs. Based on the game status, the interpretation and determination effected in accordance with step b is effected based only upon the status and the possession input entered in step a. For example, based on previous event and possession inputs, the system identifies the game status as “a foul has been called and no free throws are required”; the next possession input is interpreted and the system determines the event “inbounding the ball” by the player indicated by the possession input (Fig. 14A and specification page 15, lines 2 – 6). This claim distinguishes the present invention from the device in the reference because Descalzi does not disclose determination of events based on the game status and only the use of possession inputs.

Claims 23 and 25, as amended, include a game module for translating a series of possession inputs into a series of sports contest events. The user enters information related to a plurality of events, that information including officiating indications, player in possession of the primary object of play, or events. The system interactively responds to the entry of the user to establish a particular event. One way the system responds is by deducing the particular event based on a series of entries representative of the player in possession of the primary object of play. A series of possession inputs results in deduction of a particular event such as "pass", "steal" or "turnover" by the system (Fig. 8). Another system response is to deduce the particular event based on at least one entry representative of the player in possession of the primary object of play and a different event. The particular event "assist" is deduced based on a possession input prior to a different event "shot", or the particular event "rebound" is deduced based on a possession input following a different event "shot" (Fig.10A). The Descalzi reference does not disclose deducing a particular event from a series of possession inputs alone, or from a possession input in combination with a different event input as described above for the present invention. Therefore claims 23 and 25, as amended, are distinguishable from the Descalzi reference.

#### Obviousness Rejection

As required by the Supreme Court in Graham v. John Deere, 383 U.S. 1, 148 USPQ 459 (1966), when determining obviousness under § 103, the following factors must be considered:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) In evaluating evidence of secondary considerations. (MPEP § 2141 (I)).
- (E)

As set forth in MPEP § 2141 (II), when applying 35 U.S.C. § 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and

- (D) Reasonable expectations of success is the standard with which obviousness is determined. Hodosh v. Block Drug Co., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n. 5 (Fed. Cir. 1986).

Further, [t]he key to supporting any rejection under 36 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obviousness. The Supreme Court in KSR International v. Teleflex Inc., 550 U.S. \_\_\_, \_\_\_, 82 USPQ 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). *See also*, KSR, 550 U.S. at \_\_\_, 82 USPQ at 1396 (quoting Federal Circuit statement with approval).

Claims 26 – 36 were rejected under 35 USC 103(a) as an obvious modification of the Descalzi device. The Examiner states,

The apparatus comprises a plurality of inputs for inputting play events as it occurs (col.2:55-60). . . . The [Descalzi] game apparatus is programmed to interpret player's inputs as game event information. There are only a finite number of ways in which an apparatus can be programmed to interpret player's inputs. One can program an apparatus to recognize an event upon a single button, or one can program an apparatus to recognize an event upon numerous buttons.

Applicant respectfully asserts that the stated grounds for rejection evidence that the scope and contents of the prior art have not been fully and accurately determined by the Examiner and a failure to fully ascertain the differences between the prior art and the claims in issue. The Examiner fails to acknowledge that the prior art is unable to determine a particular game event unless that game event is directly entered as such. The only determination disclosed in the prior art is the mathematical computation required for producing statistics. In contrast, the present invention interprets the type of input entered, i.e. possession, event, and/or officiating, and in conjunction with previous and subsequent inputs, makes a determination of the game event associated with the sequence of inputs.

Further the Examiner states:

A person of ordinary skill in the art would have recognized the desirability of Descalzi, and have the system for real-time tracking and recording of a team sports contest recognize certain events without the necessity of inputting the (sic) all the separate events. This will reduce the amount of inputs required to store certain events, and save time in tracking and recording certain events.

Applicant respectfully asserts that the Examiner has failed to articulate reasoning with some rational underpinning to support the legal conclusion of obviousness. Descalzi specifically requires all game events be entered to be recognized. The entry of game events is controlled by the user. There is no indication that tracking the possession of the ball would be of any value without the user inputting the corresponding game event. Applicant finds no basis whatsoever in the cited reference, particularly, a basis reasonably amounting to articulated reasoning with some rational underpinning to support the legal conclusion of obviousness, as required under In re Kahn.

The Examiner further states that “identifying specific basketball events without the necessity of inputting the (sic) all the separate events provide the predictable result of reducing the amount of time and inputs required to track and record specific basketball events.” Applicant does not disagree with the above statement, in a general sense, but disagrees with this statement as it pertains to the determination of the obviousness or nonobviousness of present invention. Because the system tracks real time possession of the ball to make game event determinations, the present invention can provide statistical analysis of the game that previously was overly labor intensive to attain or simply unattainable from known systems such as Descalzi. Such statistics include the amount of time a player had possession of the ball (Fig. 16C, specification page 16, lines 19 – 20, and page 17, lines 3 – 6), the event or action associated with each player’s possession of the ball, and the passing history among and between the players (Fig. 17C and specification page 17, line 17 – page 18, line 2). Additional user defined reports may also be created from the possession tracking information.

Applicants provide herewith, declarations from inventor Stuart Neale; Hamline University Director of Athletics Bob Beeman; NBA World Champion and Coach of the Qatar National Basketball Team Cliff Livingston; and Marquette University Associate Athletics Director Craig Pintens. Each of these declarations describes the ball possession

tracking feature of the present invention that allows gathering information that was previously unavailable. Clearly the present invention does more than provide a predictable time savings. In these declarations, the invention is referenced as JocTrac.

Accordingly, Applicant respectfully traverses the rejection of the pending claims, and requests that the rejection be withdrawn and that the pending claims be allowed. Applicants believe independent claims 21, 23, 25, 26, 33 and 37 and the corresponding dependent claims are now in condition for allowance. If the Examiner has any questions or comments, Applicants' attorney would appreciate a telephone call at the number indicated below.

Authorization is hereby provide to charge any underpayment of fees or any additional fees due with respect hereto to our Deposit Account No. 08-1280.

Respectfully submitted,

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